IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
AND
THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

MFA.No. 672 of 2002 (D)

(OPMV.1693/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM)

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APPELLANT: 3RD RESPONDENT:

UNITED OF INDIA INSURANCE COMPANY LIMITED, KOTTAYAM
NOW REPRESENTED BY ITS ASSISTANT MANAGER,
THIRD PARTY CLAIMS CELL,
M.G.ROAD,KOCHI-16.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS: PETITIONER AND RESPONDENTS 4 TO 9:

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1. MARISHA,
   W/O.JOHNY, VAYALIL KALAPURAYIL HOUSE
   PALA P.O.

2. D.PAUL,
   S/O.SEBASTIAN,ORATHEL HOUSE,
   KARIMANOOR P.O.,THODUPUZHA.

3. O.D.JOSEPH,
   ORATHEL HOUSE,KARIMANNOOR PO
   THODUPUZHA.

4. D.SEBASTIAN, OF DO. DO.

5. SR.MARY MARIUSE,
   S.H.CONVENT,PURAPUZHA.

6. MARY ANTONY,
   KIDANGAN HOUSE,MURINGOOR,
   CHALAKKUDY.

7. BABY,
W/O.TONY,THEKKETHATHU HOUSE,
ULLANADU P.O.,PRAVITHANAM.
(NO RELIEFS ARE CLAIMED AGAINST THE RESPONDENTS 1
AND 2 IN THE ABOVE ORIGINAL PETITION AND HENCE
THEY ARE NOT MADE PARTIES IN THIS APPEAL)

BY ADV. SRI.LIJI.J.VADAKEDOM-R1
SRI.SAIGI JACOB PALATTY-R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

M.F.A.No. 672 of 2002-D

Dated this the 28th day of September, 2007.

J U D G M E N T

K.S.Radhakrishnan, J.

This appeal is filed by the Insurance Company against the award passed by the Motor Accidents Claims Tribunal, Kottayam in O.P.(MV) No.1693 of 1995 awarding compensation to the widow of one Johny who died in a road accident on 11-2-1995. At the time of death, the deceased was 28 years of age and the claimant was aged 24. She claimed total compensation of Rs.7,50,000/-. The Tribunal awarded an amount of Rs.6,34,072/-. The learned counsel for the appellant would submit that, after 6 years of the accident, the claimant has re-married. Therefore, Rs.50,000/- awarded as compensation for loss of consortium is on the higher side. The learned counsel also submitted that the income taken was also on the higher side. The learned counsel appearing for the claimant submitted that the accident had occurred 46 days after their marriage and there is no justification in reducing the amount awarded towards loss of consortium. It is also stated that the deceased was conducting a textile shop and was earning more than Rs.4,000/- per month. The learned counsel conceded that the claimant had re-married.

(2). The award of Rs. 50,000/- towards loss of consortium is on the higher side and we are inclined to fix it as Rs.30,000/-. Since the deceased was running a textile shop, we are not inclined to interfere with the monthly income. The award passed by the Tribunal is modified to the above extent. Amount already

deposited will be released and the balance amount less Rs.20,000/- shall be deposited within two months from today and the claimant may move the Tribunal for the release of the amount.

The Miscellaneous First Appeal is disposed of as above.

K.S.RADHAKRISHNAN, JUDGE.

A.K.BASHEER, JUDGE.

MS